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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

PVT. PETER S. HOTALEN AMERICAN
LEGION POST 157,

Plaintiff

CIVIL ACTION NO.

v.

UNITED STATES LIABILITY
INSURANCE COMPANY,

NOTICE OF REMOVAL

Defendant

TO THE CHIEF JUDGE AND JUDGES OF THE UNITED STATES DISTRICT
COURT FOR THE DISTRICT OF NEW JERSEY:

On notice to:

John P. Morgenstern, Esq.
Deasey Mahoney & Valentini, LTD.
923 Haddonfield Road, Suite 300
Cherry Hill, NJ 08002

PLEASE TAKE NOTICE that defendant United States Liability Insurance Company by and through its counsel, William J. Martin, Esquire, of the law firm of Martin, Gunn & Martin, P.A. hereby removes this civil action pending in the Superior Court of the State of New Jersey, Sussex County, Law Division (the "State Court Action"), Docket No. SSX-L-00580-18, pursuant to 28 U.S.C. §§

1441 and 1446, as amended and, in accordance with 28 U.S.C. § 1332, as amended, on the following grounds:

1. As more fully set forth below, this case is properly removed to this Court pursuant to 28 U.S.C. §§ 1332 and 1441 because the procedural requirements for removal are satisfied and because this is a civil action between citizens of different states in which the amount in controversy exceeds \$75,000, exclusive of interest and costs.

2. Defendant United States Liability Insurance Company is a defendant in a civil action brought in the Superior Court of New Jersey, Law Division, Sussex County, entitled Pvt. Peter S. Hotalen American Legion Post 157 v. United States Liability Insurance Company, bearing Docket Number *SSX-L-00580-18*. (Exhibit “1” attached). The complaint was filed December 14, 2018. Id. at 1.

3. The United States District Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332 by way of diversity of citizenship.

4. The plaintiff Pvt. Peter S. Hotalen American Legion Post 157 has its principal place of business and is a resident of Branchville, New Jersey. (Exhibit 1 at 3, para. 12).

5. Defendant United States Liability Insurance Company (“USLI”) is a resident of Wayne, Pennsylvania with a principal place of business in Wayne, Pennsylvania. (Exhibit 1 at 3, para. 13).

6. The amount in controversy exceeds \$75,000, as the plaintiff seeks a declaration of insurance coverage in the amount of \$750,000 for a wrongful death action filed by the Estate of Mattos, v. Pvt. Peter S. Hotalen American Legion Post 157 et al., in the Superior Court of New Jersey, Sussex County, Law Division, Docket No. L328-14, (Exhibit 1 at 1-23), and seeks payment of defenses costs and indemnity on a co-primary basis for the Mattos case. (Exhibit 1 at 18-23). Defense costs of the remaining counts have exceeded \$200,000, and co-primary coverage for defense costs would exceed \$100,000. See 28 U.S.C. § 1446(c)(2).

7. This action is removable to the United States District Court for the District of New Jersey pursuant to 28 U.S.C. § 1441(a) because the action was filed in the Superior Court of New Jersey.

8. This Notice of Removal is timely filed, pursuant to 28 U.S.C. § 1446(b)(1), allowing defendant to remove, pursuant to 28 U.S.C. § 1332, on the basis of diversity jurisdiction, since it is filed within thirty (30) days of receipt by counsel for defendant of a copy of the Summons and Complaint.

9. A copy of the summons and complaint was sent via email to counsel for defendant United States Liability Insurance Company on December 20, 2018, constituting the first notice to United States Liability Insurance Company, that the Plaintiff was asserting a claim which would permit removal to federal court. (Exhibit 2). The Summons and Complaint, filed with the Superior Court of New Jersey, Law Division, Sussex County, was served upon Defendant USLI on January 7, 2019. (Exhibit 3).

10. There are no other defendants, and therefore consent of any codefendants to remove is not required. See 28 U.S.C. § 1446(b)(2)(a).

WHEREFORE , Defendant United States Liability Insurance Company respectfully removes this action from the Superior Court of New Jersey, Law Division of Sussex County, to this Court pursuant to 28 U.S.C. §§ 1332, 1441, and 1446.

Respectfully submitted,
MARTIN GUNN & MARTIN, P.A.
Attorneys for defendant United States
Liability Insurance Company

BY: /s/ William J. Martin
William J. Martin (9364)

LOCAL RULE 11.2 CERTIFICATION

PURSUANT to Local Rule 11.2, the undersigned hereby certifies that the matter in controversy is not the subject of any other action pending in any court or of a pending arbitration or administrative proceeding and no other action, arbitration or administrative proceeding is contemplated, except for the subsequently filed action Nautilus Insurance Company v. United States Liability Insurance Company, in the United States District Court for the Eastern District of Pennsylvania, Civil Action No. 2:18-cv-05524-AB (filed 12/21/18).

Respectfully submitted,
MARTIN GUNN & MARTIN, P.A.
Attorneys for defendant United States
Liability Insurance Company

BY: /s/ William J. Martin
William J. Martin (9364)